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MEMORIAL

OF THE

GRAND LODGE

OF GOOD TEMPLARS.

At the 12th Annual Session of the Grand Lodge of Good Templars of Pennsylvania, held at Lewistown, June 14, 15 and 16, 1865, the following Memorial prepared by Dr. S. Stebbins of Unionville, Chester County, was unanimously adopted, and ordered to be signed by the Officers of the Grand Lodge, and presented to the next Legislature. It is hoped that the Subordinate Lodges, together with all other Temperance Organizations in the State, will see to it, that copies of this Petition are freely circulated and numerously signed by the people in their respective localities, and forwarded to the next Legislature.

MEMORIAL.

To the Senate and House of Representatives of the State of Pennsylvania.

The Grand Lodge of Good Templars in and for the State of Pennsylvania, in annual session at Lewistown, Mifflin county, June 14th, 1865, speaking the sentiments and wishes of a large portion of their fellow-citizens of this Commonwealth, do most respectfully represent:

That our License System is an intolerable nuisance, from the evils of which we ask to be delivered. In our opinion these evils do not arise from any lack of vigor in the enforcement of present laws, but essentially from the character of those laws themselves, and the practices and habits that are sanctioned and fostered by them. Intemperance, with all its concomitant crimes, prevails to an alarming extent in our Commonwealth, notwithstanding our most strenuous exertions to suppress it. After a long and toilsome, though not vain, contest with effects, attendants, and consequences, we find this demon of society so safely entrenched behind a citadel of Statute Law, that we are forced to petition your honorable bodies to break up his hiding place and cease to screen the monster, lest we be reluctantly compelled to abandon an enterprise the most important and beneficient the world has ever known.

Permit us then, to glance briefly at some of the prominent features of our license regulations. Under them the retailing of spiritous liquors is forbidden to all but a few favored individuals, (who, anomalous as it may appear, are compelled to furnish certificates of moral character,) to whom a special license is granted. Why is this? If the business is a useful and moral one, why should the law interfere with it? Why attempt to *regulate* and restrain that which is necessary and proper? Why attempt to provide good agents to carry it on? Will the character of the dealer change the nature or modify the effect of the article in which he deals? Can he make poison wholesome for food and drink? Why not forbid all but moral men from selling flour and meat? Why not carry out the principle and forbid all bad men from doing any good thing?

Again, if the traffic is *immoral* in its nature and tendency, why require moral men to conduct it? If a brand is applied to one of our dwellings, will not the fire burn and spread regardless of the moral character of the individual that applied it? Can good men dispense that which is pernicious and crime-engendering, without injury to society? As well might we license gambling houses and brothels,

and attempt to counteract their evils by providing good men (if the thing were possible) to superintend them. The truth is our license laws are nothing but a tissue of deception, answering none of the purposes intended, and evincing only the short-sightedness of the legislature that first enacted them; and in our opinion they will continue to be the reproach of all succeding ones that allow them to remain unrepealed.

We have surely made a full and fair trial of such laws, and they have signally failed as might have been expected. We do not see how legal enactments made with a view to the proper regulation of a vice, is ever to restrain, much less to suppress it. The principal is unsound. It is notorious that all such attempts have done more to sanction the evil, than to check it. Our present laws aim at nothing more than *moderation* in the use of liquor, and such moderation (even if desirable) is, we are confident, absolutely unattainable under any license law that the ingenuity of man can devise. Abstinence is natural and easy, but moderation is always difficult and with many persons impossible.

In the first place we doubt the *constitutionality* of all such laws. If the liquor traffic is right, they are wrong, because they debar ninety-nine out of a hundred of our citizens from engaging in it; and if the traffic itself is wrong they are scandalous, because they give a legal sanction to a fruitful source of vice and crime. So that whether intended as a restraint on a trade which all men have a natural and imprescriptible right to participate in, or as a legal authorization of a business that destroys life, safety and happiness, they are equally repugnant to the fundamental principles of our government. We believe that the State might as well set up schools for instruction in gambling, counterfeiting, and licentiousness, as to license liquor selling taverns.

The right to trade in useful commodities, is *a natural right*, which government may regulate, but can neither prohibit in times of peace, nor limit to a favored few. But if men have a natural right to vend alcoholic liquors to be used as a beverage, from what source do governments derive their power to say how many, and what kind of men shall engage in this business? We admit the authority of government to tax the trafficker in such liquors, on the same principle that it taxes the agriculturist, the merchant, and the manufacturer. But has it the power to compel the farmer to go annually to some public functionary and take out a license for his occupation, before he is privileged to plow his ground, sow his seed, and harvest his crop? Has it the right to say that none but "men of good repute for honesty and temperance" shall follow the business of tilling the earth? Has it the right to prevent the merchant from trading in useful commodities unless he shall first obtain a legal permit to do so? Has it a right to say who shall be a merchant, and that no more than a specified number of stores shall be allowed to a given amount of population? We are aware that our storekeepers are made to pay what is called a "*license*" for vending foreign and domestic merchandise, but they are not forced to obtain such license before they can commence business, nor are they liable to fine or imprisonment for going on in their business without it. It amounts to nothing more than a tax, which is levied and collected like other taxes on professions and trades. Has the legislature the power to prohibit the manufacture of shoes by all except such as have a statute license to follow the business; and has it the right to prescribe the character and number of shoemakers in a town, borough or city? If it has not the right to interfere with and arrest human industry in every case where it is not prosecuted under special governmental permission, on what authority or principle does it limit the number of retailers of intoxicating drinks, and force each

one to procure a license for his business before engaging in it? Are not these legal distinctions between the callings of the spirit-vender and that of other people, made on the ground that his permit to traffic in liquors rests on no natural, moral, or political right, but exclusively on special *legislative favor*—a favor which we think has been wrongfully and unconstitutionally granted, and which ought to be immediately withdrawn and forever prohibited to all, as it is now prohibited to ninety-nine out of a hundred of our citizens. The right to forbid any class of our people from pursuing the business, carries with it the right to prohibit it altogether. The danger of opening the traffic to all, shows the danger and absurdity of intrusting it to any.

What we complain of is, that the retailer of intoxicating drinks enjoys special privileges, under cover of which he seeks his own private emolument, to the manifest injury of the public welfare. Unlike other citizens, he can inflict incalculable damage upon society, without being held responsible. He makes money by dealing destruction around him, and the statute gives him an exclusive right to the work of ruin in his neighborhood. This we regard as a sad perversion of the powers of government. By his law-authorized occupation, he can instigate men to the commission of the most horrid outrages, and the most diabolical enormities. He can make widows, and orphans, and paupers, and felons, with impunity. He can make rich men destitute, wise men fools, respectable men loafers, good men bad, and bad men worse, without check or hindrance. He can levy a rum-pauper tax, and compel people who never drink rum to pay it. He can levy a rum-criminal tax, and force sober men and women to bear the unnatural and cruel burden. He is permitted by law to take money for a poisonous and debasing article, while for a much less offence the provision dealer is indicted and punished. For sordid gain he may infuriate his customers with drink, until they commit assaults and batteries, larcenies, and murders; but unlike other criminals he escapes, while the law inflicts its vengeance on the poor dupe of his guilty traffic. This we regard as a flagrant wrong, and a glaring absurdity; it is overlooking the cause and striking a cowardly and useless blow at an effect; it is letting the principal go and punishing the agent.

It not unfrequently happens, that the rumseller himself is called to sit upon the very jury which is impaneled to try one of his own victims for a crime committed under the maddening influence of his own liquor. What a scene to be enacted in the sacred name of Justice! In our opinion there would be little violation of righteous principle, in compelling such a juror to change places with the criminal at the bar. But what renders such trials a still greater farce, is the revolting fact that the same court who sits in judgment on the wretched, rum-made culprit, grants a license to the rumseller, to pursue his demoralizing vocation. Can such things be and not excite our special wonder? How long, or in other words, how much longer will the legislature of this enlightened State permit such monstrous anomalies, such iniquitous enactments, to disfigure our laws, and shed blight and mildew, upon a suffering people?

Is it not strange and shameful, that vice should be installed and upheld by a statute, that a governmental sanction should be given to that which is the principal instigator of crime, and which causes a daily and almost hourly infraction of law? We raise legal mounds around each individual, for the security of person and property, and then, as if for the very purpose of defeating their object, we license that which causes them to be rent asunder. We pull down with one hand what we build up with the other. Protective laws are of no avail, while that is encouraged by law which never fails to secure their violation. Of what use are laws against assaults, blows, theft, robberies and murder, while we commission men to deal out that which makes ruffians, thieves, robbers, and murderers? What sense

or reason is there in such legislation? All the purposes of good government, and a well organized judiciary, are defeated by the liquor traffic, and so long as this traffic is sustained, and not forbidden by law, so long shall we feel that we are deprived of that legal protection to person and property, which the people have a right to claim of their rulers, and which it is the first duty of all governments to afford.

What would be thought of a legislature, that should construct a system of wise and wholesome laws for a people, and then cap the climax by the addition of a statute the direct and necessary effect of which would be to insure the nullification of the whole previous code? Their wisdom might be likened to that of a man who should build a fine house for himself and family, and then cause a crevice to be opened under the eaves, sufficiently large to allow the first blast of wind to unroof it, and expose its wretched inmates to the peltings of every after storm that might chance to beat upon them. Our legislators, whatever may have been their motives, committed an act of equal folly when they framed our license laws, and we shall be in the condition of a family inhabiting a roofless house, or a community without a government, until we obtain that first and most necessary provision for our safety, a law prohibiting the liquor traffic. While we lack this we are without anything that deserves the name of government. Our whole criminal code is a splendid cheat, and our judiciary a solemn mockery.

We say this, because we know we are dealing with a matter in which the innocent are forever doomed to suffer with the guilty, and we would call your special attention to the fact that the innocent are the greatest sufferers. The most frightful accidents and casualties are constantly happening from intoxication; horses are driven by persons inflamed by liquor, through town and country, at the top of their speed, endangering the lives and property of all in their way; fire is carelessly handled by drunken men, and extensive conflagrations are the consequence. We have no security against such disasters, so long as the law remains as it is. We can not enter a stage coach, railroad car, steamboat, or packet ship, without putting our lives and property in jeopardy from the besotted heedlessness of drivers, engineers, pilots, and captains. How many steamers loaded with human beings have been blown to atoms, how many ships freighted with untold wealth have been foundered in the ocean, how many cities laid in ashes through the direct and indirect agency of alcohol!

In the eloquent language of one of our Navy officers, "could the wave that has been the winding sheet of the sailor speak, could the lonely shore reveal the secrets of its frequent mounds—there would be voices on the ocean, and bones on the strand, to tell a tale of death more wild and dark than any that ever yet knelled its terrors through the most tragic dream. It is not the tempest casting the proud ship a naked hulk on the deep, nor the rock strewn with fragments of its perished strength, that has wrought this scene of desolation, and filled so many hearts with unavailing sorrow—it is that cup of insiduous poison—mingled and mixed and still placed to his lips by the Government! Yes, by the Government!"

If those who indulge in debasing beverages were the only sufferers, we might be disposed to regard their degradation and misery as a righteous retribution, and submit to witness their just afflictions in silence; but society is so constituted that no human being can fall from respectability and usefulness without dragging down with him a greater or less number of guiltless victims; and all these, together with the erring one, are constantly exciting our pity and compassion. We can not be happy and cheerful while they are so sad and miserable. But if we could become callous and indifferent to the woes of all such, we who abstain from the drunkard's potations, are not ourselves

secure from his constant outrages. As a striking instance of this, we refer to the appalling and world-astounding assasination of President Lincoln. Our great and good Chief Magistrate was a teetotaler, and had been one for twenty-five years, yet that did not save his honored head from the bullet of the drunken assassin. His murderer was a vile and brutal sot, and such had been his character for the last seven years. He was educated and fitted for the horrible deed in the grog-shops of the country. No sober man that ever lived, was ever hell-blackened enough for the commission of such a murder. A crime so unmatched in atrocity could not have been achieved without the aid of conscience-stifling alcohol. The natural or unnatural baseness of human nature is inadequate to such an enormity. The instigations of the devil would have failed without the all potent assistance of the intoxicating glass. The evidence in the case shows, that during the day of the murder, Booth kept himself just drunk enough to play the fiend, and that he hardened his heart and nerved his arm with an additional glass of brandy, and not ten minutes before the fatal shot was fired which slew the Savior of the Republic, and evoked a wail of sorrow and lamentation throughout the civilized world. This is but one instance, though a signal one, in which alcohol smites and desolatos those who abstain from its use. There can be no security for the sober, while drunkards are manufactured by process of law, and permitted to prowl by night and day.

There is no safety for any one in society, male or female, old or young, rich or poor, where intoxicating liquors are sold as a beverage. Whether at home or abroad, riding or walking, lying down or sitting up, the life, property, and happiness of every human being is endangered by the continuance of this horrible traffic. We ask to be protected from this state of things. We believe it is in your power to protect us, by the passage of a law forbidding the sale of such beverages, and we feel that we have a right to claim this much at your hands. It was for such protection as this, that our government was organized, it is for this that we pay our taxes, and bear the public burdens.

We know that there are persons who pretend to doubt your constitutional power to banish such an outrage on all that man holds dear? Where then do you get your power to stop locomotion—to arrest a man's right to travel because he is afflicted with certain ailments. The State has established a Quarantine on the Delaware river, at which they forcibly detain all vessels having on board persons laboring contagious or infectious diseases. Is not the right to establish such an Institution derived from the law of self-defence? And will not the same principle authorize society to protect itself from the consequences of a business more dreadful and blighting than the whole catalogue of the worst distempers that ever ravaged the world? If we may not invoke the power of the law for the suppression of this appalling and destructive business, then is the constitution a nullity, and civil government a sham.

But the Supreme Court of the United States has settled the question beyond the possibility of a doubt. In the important cases carried there from Massachusetts, Rhode Island, and New Hampshire, the concurrent opinions of the entire Bench so swept away all constitutional objection to the most stringent prohibitory laws of the several States, that not even a legal figment was permitted to remain. The Court not only declared that there was no conflict between those prohibitory State laws, and the Constitution, Acts of Congress, or Treaties, but in all their opinions fully confirmed the right of the States to prohibit entirely the sale of intoxicating drinks, by wholesale as well as retail, foreign importations as well as domestic manufactures.

OPINION OF THE U. S. COURT.

Chief Justice Taney: "Every State may regulate its own internal traffic, according to its own judgment, and upon its own views of the interest and well being of its citizens. I am not aware that these principles have ever been questioned. If any State deems the retail and internal traffic in ardent spirits injurious to its citizens, and calculated to produce idleness, vice, or debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restraining the traffic, or from prohibiting it altogether if it thinks proper.

Mr. Justice McLean: "The acknowleded police power of a State extends often to the destruction of property. A nuisance may be abated. It is the settled construction of every regulation of commerce, that no person can introduce into a community maligant diseases, or any thing which contaminates its morals, or endangers its safety. Individuals in the enjoyment of their own rights must be careful not to injure the rights of others."

Mr. Justice Catron: "I admit as inevitable that if the State has the power of restraint by license to any extent, she has the discretionary power to judge of its limit, and may go to the length of prohibiting sales altogether if such be her policy; and that if this court cannot interfere in the case before us, neither could we interfere in the extreme case of entire exclusion.

Mr. Justice Daniel said of imports, that are "cleared of all control of the government." "They are like all other property of the citizen, whether owned by the importer or his vendee, or may have been purchased by cargo, package, bale, piece or yard, or by hogsheads, casks or bottles. If then there was any integrity in the objection urged, it should abolish all regulations of retail trade, all taxes on whatever may have been imported." In answering the argument that the importer purchases the right to sell when he pays duties to government. Mr. Justice Daniel continues to say, "No such right is purchased by the importer; he cannot purchase from the government that which it could not insure him, a sale independently of the laws and polity of the State."

And Mr. Justice Grier said, "It is not necessary to array the appalling statistics of misery, pauperism and crime, which have their origin in the use or abuse of ardent spirits. The police power which is exclusively in the States, is alone competent to the correction of these great evils, and all measures of restraint or prohibition necessary to effect the purpose, are within the scope of that authority. All laws for the restraint or punishment of crime, for the preservation of the public peace, health and morals, are, from their very nature, of primary importance, and lie at the foundation of social existence. They are for the protection or life and liberty, and necessarily compel all laws on subjects of secondary importance, which relate only to property, convenience or luxury, to recede, when they come in contact or collision. "Salus populi suprema lex." The exigencies of the social compact require that such laws be executed before and above all others. It is for this reason that quarantine laws which protect public health, compel mere commercial regulations to submit to their control. They restrain the liberty of the passengers. They operate on the ship, which is the instrument of commerce, and its officers and crew, the agents of navigation, They seize the infected cargo and cast it overboard. All these things are done, not from any power which the State assumes to regulate commerce, or to interfere with the regulations of commerce, but because police laws for the preservation of health, prevention of crime, and protection of the public welfare, must of necessity have full and free operation, according to the exigency that requires their interference. If a loss of revenue should accrue to the United States from a diminished consumption of ardent spirits, she will be the gainer a thousand fold in the health, wealth and happiness of her people."

Thus all the Judges of the United States Supreme Court reaffirmed and corroborated the decisions of each subordinate state court, that the entire control for the sale of intoxicating drinks is within the legitimate province of the State Legislature. And this control is not limited to any mere regulations or partial restrictions, but extends to the entire prohibition, whenever the Legislature of any State think such legislation essential to the public welfare.

We know it is contended that taverns are necessary for the public accommodation, and that they cannot be kept without the privilege of selling liquor. We grant that public houses are needed, but deny that more are necessary than can live by supplying the real wants of the public. Are we bound to foster base appetites and depraved habits in order to secure a sufficient number of taverns? As well might it be argued that we are bound to take medicine when we are not sick, in order that the public may be accommodated with physicians and

apothecaries when wanted. That the present number of taverns could not be supported, if confined to the usual part of their business is quite probable. Granting this, it follows that there are at this time more taverns than the public convenience and the public good requires. And what else does it show? Why clearly that the whole excess over and above what is really required for the public accommodation, which for aught we know may be one-half of the whole number, owe their existence to a traffic which neither promotes nor seeks to promote the public good—a traffic which is not only a waste of all the money it involves, but which is the source of nearly all the poverty, crime, and suffering, that exists in the State. The public want taverns, and must and will support so many and such as are needed, but they do not want dram-selling taverns. Better, a thousand times would it be, to have none at all, than to have such as produce infinitely more evil than good.

We are aware that the vender pleads poverty as an excuse for continuing the traffic. He says he must sell liquor to support his family. This we deny; we do not believe that Providence has so ordered things, that men cannot live without preying upon each other. Ninety-nine out of a hundred of our people live without the privilege, and think it no hardship. As well might we have everlasting war among the nations of the earth for the mere purpose of giving steady employment and high wages to officers and soldiers, or as well might the makers of idols in heathen lands oppose the introduction of Christianity, because it would spoil their trade. But if those engaged in the liquor business can not support themselves and their families by some honest and useful vocation, then we say let the public support them. We would much rather be taxed to maintain them, than the paupers and criminals which they are constantly throwing upon the public. We are willing to bear all necessary burdens, but are tired of sustaining the oppressive load which is heaped upon us by a legalized vice.

We are also aware that it is contended that a prohibitory law could not be enforced. This we do not believe. We are confident that it would be more easy to enforce such a law, than to prevent a violation of our present license system. The sale of strong drinks can be prohibited and banished, but it cannot be *regulated*, so long as it is approved by law. We look upon the legalized traffic as the parent of the illegal traffic, and we doubt not that so long as the former is permitted, the latter will prevail in spite of the most stringent enactments to the contrary. Give us the law, and we will see that it is executed.

If after its adoption, men are found ready to violate it, we shall not be surprised, nor shall we regard that as a reason for its repeal. The laws against fraud, theft, and counterfeiting, are frequently broken, yet no one thinks of making such infraction a pretext for their repeal, or an excuse for licensing the crimes which they are intended to prevent. If liquor is sold for a beverage, we wish it to be sold contrary to law. We think the effect of such sale under the ban of law, is much less pernicious, than it otherwise would be. We maintain that our laws should be on the side of virtue and morality, whether they can be enforced or not, as it is better that men who will do wrong, should act in the face of the law, than that the law should be made to sanction their wrong doing.

We hope you will see the justice and urgent necesssity of granting the act we solicit, and we are confident that its fruits will be such, that your names and deeds will be held in grateful remembrance by a happy and improving posterity.

And we will ever pray, &c.

Signed by order of the Grand Lodge,